

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:13-CV-057-DCK**

LYNNETTE COLE,)
)
Plaintiff,)
)
v.) <u>ORDER</u>
)
CHARLOTTE MECKLENBURG SCHOOL DISTRICT,)
)
Defendant.)
)

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion For Summary Judgment...” (Document No. 15) filed August 27, 2013, and “Defendant’s Motion For Extension Of Time To Respond To Plaintiff’s Motion For Summary Judgment” (Document No. 16) filed August 28, 2013. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review of these motions is appropriate. Having carefully considered the motions and the record, the undersigned will deny without prejudice the motion for summary judgment, and grant the motion for extension of time.

The undersigned notes that the “Pretrial Order And Case Management Plain” (Document No. 14) was entered in this case on July 26, 2013. That “Order” included the following deadlines: discovery – December 1, 2013; mediation report – December 15, 2013; and motions – January 15, 2014. (Document No. 14). Barely a month later, Plaintiff filed her “...Motion For Summary Judgment” (Document No. 15). Defendant now requests an extension of time to file a response to the summary judgment motion. (Document No. 16). Defendant notes that it has not yet received Plaintiff’s responses to Defendant’s First Set of Interrogatories and First Request For Production of Documents, and states that it may need to take the deposition of Plaintiff

and/or serve additional written discovery. *Id.* Defendant concludes that it cannot respond to the pending motion for summary judgment until discovery is completed in this matter. *Id.*

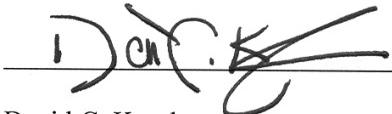
Under the circumstances, the undersigned finds that Defendant should be allowed to proceed with discovery. Moreover, the undersigned is not persuaded that Plaintiff will suffer any significant prejudice by cooperating in discovery, or by having her motion for summary judgment dismissed, without prejudice to re-file at a later date, following the completion of discovery and mediation.

It appears that Plaintiff has completed the discovery she believes is necessary to support a favorable ruling on summary judgment. *See* (Document No. 15). As such, the parties are welcome to file a joint motion to amend the discovery plan and/or remaining case deadlines. However, if the parties are unable to agree on a revised schedule, the undersigned is not inclined to alter the existing "Pretrial Order And Case Management Plan" (Document No. 14).

IT IS, THEREFORE, ORDERED that "Plaintiff's Motion For Summary Judgment..." (Document No. 15) is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that "Defendant's Motion For Extension Of Time To Respond To Plaintiff's Motion For Summary Judgment" (Document No. 16) is **GRANTED**.

Signed: August 28, 2013



David C. Keesler
United States Magistrate Judge
